

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ORGANIC SEED GROWERS AND TRADE  
ASSOCIATION, et al.,

Plaintiffs,

v.

MONSANTO COMPANY and MONSANTO  
TECHNOLOGY LLC,

Defendants.

ECF CASE

No. 11-cv-2163-NRB

Jury Demanded

**DECLARATION OF C.R. LAWN  
IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS'  
MOTION TO DISMISS FOR LACK OF SUBJECT-MATTER JURISDICTION**

I, C.R. Lawn, declare as follows:

1. I am the founder and one of the co-owners of plaintiff Fedco Seeds Inc., a cooperative seed company in Maine. Fedco is a distributor of seeds for hundreds of varieties of crops, including corn, soybeans, and alfalfa. We don't ourselves grow the seed we sell. Rather, we contract with others, including farmers, to grow seed for us. These farmers ship their seed to us in bulk and then we resell that seed to our customers.

2. Fedco sells only conventional and organic seed. Thus, Fedco does not purchase any transgenic or genetically modified seed varieties from its suppliers. However, Fedco's seed supply may unintentionally become contaminated with transgenic seed and we are concerned that such contamination will subject us to a patent infringement lawsuit by Monsanto.

3. Our concern stems, in part, from our knowledge of the general risk of seed contamination. We are, for example, well aware of the devastating effect GMO seed contamination wreaked on organic canola, which is now virtually impossible to find. We frequently hear reports of farmers and other seed businesses being contaminated by transgenic seed.

4. Our concern also stems from several incidents of near contamination of our own seed supply in the past. Because of the known risk of seed contamination, Fedco regularly tests the seed it receives from its farmers for the presence of transgenic seed. This testing is significant burden, as we spend around \$2,000.00 annually on such testing. In 2005, Fedco received a test result showing that some corn seed we were sent by a supplier was contaminated with GMO seed. As a result of this positive contamination test result, we returned the seed to the supplier. We had similar instances of being sent contaminated corn seed by our suppliers in 2008, 2009, 2010. In each case, we either rejected or returned the contaminated seed.

5. While Fedco expends considerable effort each year trying to prevent the redistribution by us of contaminated seed, we cannot afford to test every single batch of seed that comes to us from our suppliers, even for sweet corn and beets, crops known to be at risk. Thus, there is a real risk that some day soon we may unintentionally and unknowingly redistribute transgenic seed to customers.

6. Since our business is seeds, we are very familiar with Monsanto, the world's largest distributor of GMO seed. We are specifically familiar with Monsanto's lawsuits against

farmers and other seed businesses alleging patent infringement. For example, one of Fedco's customers, Moe Parr, was sued by Monsanto for patent infringement. Monsanto is clearly a company that does not believe in or support organic or conventional seed and they are not shy about using lawyers to attack anyone they think is using their seed without their permission.

7. From our understanding of Monsanto's behavior and its history of suing for patent infringement, we at Fedco are very concerned that if/when we accidentally sell seed that is contaminated by Monsanto's seed, Monsanto will accuse us of patent infringement. It may not be obvious, but seed companies like Fedco are direct competitors to Monsanto and that fact gives Monsanto an additional reason to want to sue us. Fedco has made its reputation by having zero tolerance for transgenic contamination in our seed, whether we distribute it to our conventional or to our organic grower customers. This zero tolerance policy has contributed significantly to our success in a very critical marketplace, which makes us a more likely target for suit by Monsanto.

8. I understand that Fedco's lawyers have asked Monsanto to assure Fedco that it is not at risk of being sued for patent infringement if it ever unwittingly sells seed that is contaminated with Monsanto's GMO seed. Monsanto has not given Fedco any such assurances.

I declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury under the laws of the United States, that the foregoing is true and correct to the best of my knowledge and belief.

C.R. Lawn

C.R. Lawn

Executed on July 31, 2011